

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
THIRD DIVISION

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In Re:

Bankruptcy 03-32282  
Chapter 7 Case

Eugene W. Broas,

Debtor.

NOTICE OF MOTION AND MOTION  
FOR AN ORDER DIRECTING DEBTOR  
TO SURRENDER PROPERTY

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TO: The debtor and other entities specified in Local Rule 9013-3.

1. Michael J. Iannacone moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion at 11:30 a.m. on September 1, 2004 in Courtroom 228A, United States Courthouse, 316 North Robert Street, St. Paul, Minnesota or as soon thereafter as counsel may be heard.
3. Any response to this motion must be filed and delivered not later than August 25, 2004, which is seven (7) days before the time set for the hearing (including Saturdays, Sundays, and holidays), or filed and served by mail not later than August 22, 2004, which is ten (10) days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
4. The Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This is a core proceeding.
5. The petition commencing this Chapter 7 case was filed on March 30, 2003. The case is now pending in this Court.
6. This motion arises under 11 U.S.C. § 521(4) and Bankruptcy Rule 4002.

7. Movant is the trustee of the bankruptcy estate of the debtor. The debtor has failed to surrender and continues to withhold the following estate property from the trustee:

2003 state and federal income tax refunds in the amount of \$354.41.

8. Debtor is required to surrender and deliver to the trustee all estate property, 11 U.S.C. § 521(4).

**WHEREFORE**, Movant requests an Order of the Court directing debtor to surrender forthwith all of the property of the estate described above to the trustee at the address indicated for the trustee and \$500.00 in legal fees and cost and disbursement incurred in bringing on this motion and for such other and further relief as the Court deems just and equitable in the proceeding.

Dated: July 15, 2004

\_\_\_\_/e/ Michael J. Iannacone\_\_\_\_  
Michael J. Iannacone, #48719  
8687 Eagle Point Boulevard  
Lake Elmo, MN 55042  
(651) 224-3361

Debtor's last known address:

744 Franklin Ave.  
Faribault, MN 55021

Verification. I, Michael J. Iannacone, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on July 15, 2004

\_\_\_\_/e/ Michael J. Iannacone\_\_\_\_

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
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Eugene W. Broas,

**UNSWORN CERTIFICATE  
OF SERVICE**

Debtor.

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I, Krisann Treague, employed by Michael J. Iannacone, attorney licensed to practice law in this Court, with office address of 8687 Eagle Point Boulevard, Lake Elmo, Minnesota, declare that on July 15, 2004, I mailed copies of a **NOTICE OF MOTION AND MOTION FOR AN ORDER DIRECTING DEBTOR TO SURRENDER PROPERTY AND PROPOSED ORDER** by first class mail postage prepaid to each entity named below at the address stated below for each entity:

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United States Trustee  
1015 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415

Eugene W. Broas  
744 Franklin Ave.  
Faribault, MN 55021

Stephen J. Behm, Esq.  
Eskens Gibson & Behm Law Firm  
115 Hickory St. #1056  
Mankato, MN 56002-1056

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And, I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on: July 15, 2004

\_\_\_\_/e/ Krisann Treague \_\_\_\_

UNITED STATES BANKRUPTCY COURT  
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Eugene W. Broas,

**O R D E R**

Debtor.

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At St. Paul, Minnesota.

The above-entitled matter came on for hearing before the undersigned Judge of Bankruptcy Court upon the motion of the trustee for an Order directing the debtor to surrender property to the trustee.

Michael J. Iannacone, Esq. appeared on behalf of the motion and other appearances are as noted in the record.

Upon all the files, records and proceedings herein,

**IT IS HEREBY ORDERED**, that the debtor shall surrender and deliver to the trustee at 8687 Eagle Point Boulevard, Lake Elmo, Minnesota the following described property on or before September 11, 2004:

2003 state and federal income tax refunds in the amount of \$354.41. The debtor shall also pay the trustee \$500.00 as and for attorney's fees awarded in bringing this motion.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Dennis D. O'Brien, Judge  
United States Bankruptcy Court